

From: Spear, Susan
Date: March 01, 2019 10:49:20 AM (-05)
To: Vutera, David
Cc: Nonna, John; Altschiller, Tami; Meyer, Aviva; Ferris, Andrew; Martin Rogowsky
Subject: **FW: JetSmarter**

Attachments:

See below from AAB Chairman Peter Schlactus in response to the Jetsmarter email I sent him yesterday, as we discussed. He is pushing back on the legal opinion. Any suggestions for a response?

Susan Spear
Assistant to Westchester County Executive George Latimer
148 Martine Ave., White Plains NY 10601 – 9th floor
914.995.2945 (office)
914.391.3803 (cell)
sspear@westchestergov.com



Follow Westchester County



[Facebook](#) - [Twitter](#) - [Youtube](#) - [Instagram](#)

From: Peter Schlactus <pschlactus@gmail.com>
Sent: Friday, March 1, 2019 7:59 AM
To: Spear, Susan <SSpear@westchestergov.com>
Cc: Meyer, Aviva <Ameyer@westchestergov.com>; Ferris, Andrew <AFerris@westchestergov.com>; Martin Rogowsky <mlrogowsky@gmail.com>
Subject: Re: JetSmarter

Susan,

I appreciate the work of the County Law Department in response to my concerns about JetSmarter's operations at the airport and potential noncompliance with the Terminal Use Procedure law - section 712.462 of the Laws of Westchester County. Its conclusion that Terminal Use Procedures "do not apply to JetSmarter or Federal Aviation Regulation ("FAR") Part 135 air carrier operations" leave me questions given the following excerpts from the County Law:

Section 1. ...All Passenger Service provided at the Airport shall be provided at the Terminal

Section 2.a "Airline" shall mean any person providing Passenger Service in aircraft designed for more than (9) passenger seats, including but not limited to, any air carrier or other operator certified to provide Passenger Service under Parts 119, 121, or 135 of the Federal Aviation Regulations, Title 14, Code of Federal Regulations.

Section 2.j "Passenger Service" shall mean any air service to or from the Airport for which seats are individually offered or sold to the public or a segment of the public, regardless of whether such individual seats are offered or sold directly by the aircraft operator, a charterer, another Airline, or any other entity.

Maybe I am misreading the text, but the law appears to explicitly INCLUDE the operations of the Part 135 air carriers that JetSmarter utilizes so long as planes are designed for more than (9) passenger seats - regardless of whether such seats are installed or filled. Also the law appears to apply whether JetSmarter is an air carrier OR OTHER OPERATOR and whether or not seats are sold directly or indirectly.

COW-00005947

The fact that the law refers to all operators who are required to use the terminal as "Airlines" should not obscure the apparent intent to cast a wide net and include under that term many operators that we might not normally label as such.

Perhaps I am wrong to focus on JetSmarter and it is the Part 135 carriers used by JetSmarter who must comply whenever they utilize planes designed for more than (9) passengers. The point is that the law seems to clearly require use of the Terminal for any Passenger Service on aircraft designed for more than (9) passengers when seats are individually offered or sold to the public. The fact that "JetSmarter-arranged flights utilizing Part 135 air carriers are not conducted at the Terminal or Terminal Ramp" is not a justification for sidestepping the Terminal Use Procedures. It is the very problem we are bringing to your attention -- the noncompliance that we believe the County needs to take action on.

Again, I am no aviation expert and I don't know the qualifications of the person from the Law Department. I would be happy to be shown where my plain English reading of the law is off-based. But I hope you can see where I am coming from and would appreciate hearing your thoughts and having someone take a second timely look at this. Thank you for keeping me informed about next steps as much as possible, and please note I am again copying in those parties who I have been instructed to for matters involving airport policy, such as policy on enforcement of the County's Terminal Use Procedures.

Warm regards,

Peter Schlactus

Note that my email has changed.

To reach me by phone or text: 914-629-9234